

DECENTRALIZATION PERMITS MANAGEMENT OF HAZARDOUS AND TOXIC WASTE

(Implementation Study of Article 59 paragraph (4) Act No.32 Year 2009
concerning Protection and Environmental Management in Malang City)

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ABSTRAKSI

DINDA WINDI CAESARA WINARDI, 0910113052, 2013, Desentralisasi Perizinan Pengelolaan Limbah Bahan Berbahaya dan Beracun (Studi Implementasi Pasal 59 Ayat (4) Undang- Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup di Kota Malang), Jurnal Ilmiah, Hukum Administrasi Negara, Fakultas Hukum Universitas Brawijaya, Dosen Pembimbing: Sri Kustina, SH. CN, dan Dr. M. Fadli, SH. MH, 19 lembar.

Abstrak penelitian ini memaparkan atau menggambarkan serta menjawab permasalahan perlindungan hukum desentralisasi perizinan pengelolaan limbah Bahan Berbahaya dan Beracun (B3). Desentralisasi adalah penyerahan kewenangan dari pemerintah pusat kepada pemerintah daerah untuk mengurus urusan rumah tangganya sendiri, berdasarkan prakarsa dan aspirasi masyarakat dalam kerangka negara kesatuan Republik Indonesia.

Penulisain skripsi ini, penulis mengangkat judul “*DESENTRALISASI PERIZINAN PENGELOLAAN LIMBAH BAHAN BERBAHAYA DAN BERACUN (Studi Implementasi Pasal 59 Ayat (4) Undang- Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup di Kota Malang)*” Adapun permasalahan yang diteliti adalah (1) Bagaimana Implementasi Pasal 59 ayat (4) Undang- Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup, Terkait Desentralisasi Perizinan Pengelolaan Limbah Bahan Berbahaya dan Beracun (B3) di Kota Malang, (2) Apa Saja Hambatan yang Dihadapi Badan Lingkungan Hidup Kota Malang Dalam Pelaksanaan Implementasi Pasal 59 ayat (4) Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup, Terkait Desentralisasi Perizinan Pengelolaan Limbah Bahan Berbahaya dan Beracun (B3) dan Bagaimana Upaya Untuk Menghadapi Hambatan Tersebut. Metode pendekatan yang digunakan dalam penelitian empiris ini adalah pendekatan yuridis- sosiologis.

Proses perizinan pengelolaan limbah B3 yang semula dilaksanakan secara sentralisasi, sejak lahirnya Undang Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup, perizinan pengelolaan limbah B3 sebagian dilaksanakan secara desentralisasi. Hal ini tercantum dalam Pasal 59 ayat (4) Undang- Undang ini bahwa pengelolaan limbah B3 wajib mendapatkan izin dari Mentri, Gubenur, Bupati/ Walikota sesuai dengan kewenangannya. Peran Pemerintah Daerah dalam pengelolaan lingkungan hidup secara tegas juga dinyatakan dalam Undang- Undang Pengelolaan Lingkungan Hidup. Peran dan wewenang pemerintah daerah dalam pengelolaan lingkungan hidup dinyatakan dalam pasal 13 dan pasal 14 Undang- Undang Nomor 32 Tahun 2004 tentang Pemerintah Daerah.

Kata Kunci : desentralisasi, perizinan, pengelolaan limbah B3, implementasi, Kota Malang.

ABSTRACT

DINDA WINDI CAESARA WINARDI, 0910113052, 2013, Decentralization Permits Management of Hazardous and Toxic Waste (Study of Implementation of Article 59 paragraph (4) Act No.32 Year 2009 concerning Protection and Environmental Management in Malang City) , Essay, State Administrative Law, Faculty of Law, Brawijaya University, Lecturer: Sri Kustina, SH. CN, dan Dr. M. Fadli, SH. MH, 19 pages.

Abstract: This research describes or illustrates as well as addressing the problems of the protection of law decentralization of waste management permissions Hazardous Material. Decentralization is handover of authority from central government to local governments to deal with the affairs of his own household, based initiatives and aspirations of the people within the framework of the unitary state of the Republic of Indonesia.

In this research, author made a title *“DECENTRALIZATION PERMITS MANAGEMENT OF HAZARDOUS AND TOXIC WASTE (Study of Implementation of Article 59 paragraph (4) Act No.32 Year 2009 concerning Protection and Environmental Management in Malang City)”* The problem under study are (1) How Implementation of Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Management of the Environment, Waste Management Licensing Decentralization Related Hazardous Material in Malang City, (2) What are the Obstacles which Environment Board faced Malang City In Implementation Implementation of Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Management of the Environment, Waste Management Licensing Decentralization Related Hazardous and Toxic (B3) and How To facing Obstacles Such efforts. The approach used in this empirical approach is empirically socio-juridical.

Permitting process management hazardous and toxic waste which was originally implemented in centralization, since the enactment of Law No. 32 Year 2009 concerning Protection and Management of the Environment, hazardous waste management permissions and beracunsebagian implemented decentralization. It is stated in Article 59 paragraph (4) of this Act that the management of hazardous and toxic waste must obtain permission from the Minister, the Governor, the Regent / Mayor in accordance with their authority. Role of Local Government in environmental management is also explicitly stated in the Act Environmental Management. The role and authority of local government in environmental management stated in article 13 and article 14 Act No. 32 Year 2004 on Regional Government.

Kata Kunci : decentralization, permission, management hazardous and toxic waste, implementation, Malang City

A. Introduction

Management and preservation of the environment today can not be separated with the implementation of regional autonomy that have been implemented long ago. Implementation of regional autonomy is the mandated by Article 18 of the Constitution in 1945 and became the political will and political commitment of the government. Indonesia has several times changing regional autonomy laws to Act No. 32 Year 2004 on Regional Government. Regional autonomy can be run in accordance with the Constitution of 1945 if awakened relationship between autonomy wholeheartedly with democracy symbiotic mutualism between the central, provincial and district / city governments¹. Legal responsibilities of local government in the management and conservation of the environment, in Act No. 32 of 2009 on the Protection and Management of the Environment confirmed in Article 13 paragraph (3).

Important instrument in controlling pollution and avoid environmental damage is environmental quality standards, licensing relating to waste disposal, environmental impact assessment and environmental audit². Permissions is one of the administrative instrument which is used as a tool in the field of prevention and control of environmental pollution. Usage permissions as a means of control and prevention of environmental pollution has been affirmed in Article 36 of Act No. 32 of 2009 on the Protection and Management of the Environment.

East Java province has a population of 34.7 million people³, became the second most populous province after West Java. Strong population growth in the province is contributing a strong national economy and also the development of highly evolved. Environmental change is also something that can not be avoided. Increasing industrial development in East Java have also increased the potential for pollution and environmental damage caused by

¹ Suparto Wijoyo, *Otoda Dari Mana Dimulai*, Airlangga University Press: Surabaya, 2005, page 41

² Takdir Rahmadi, *Hukum Lingkungan di Indonesia*, Raja Grafindo Persada: Jakarta, 2012, page.

126

³ BPS, Data Sensus Penduduk 2011, <http://www.bps.go.id>, access on 20 February 2013

waste and hazardous waste and toxic materials that are leftover material from production industries. Malang as one city in East Java province also influential in generating hazardous waste and not a little because industry in Malang. Regarding the form of hazardous waste management and management requires permission management, while there is no prohibition in Act and the Management of Environmental Protection to dispose of this hazardous waste directly, if the permissions authority providing waste management and hazardous materials are only owned by the Ministry of Environment, will be very difficult industry to be in this area. Ineffectiveness to get permit constrained time, distance and cost to obtain permits to be one of the reasons not all industries are located in Malang has environmental management permissions.

Under the Environmental Management Act, permissions the management of hazardous and toxic wastes can be implemented in a decentralized manner by giving authority to the head area to set the conditions that must be met industry manage hazardous and toxic wastes. Form of permissions is expected to be implemented environmental management decentralization by granting authority to the provincial government in the task of issuing environmental permits at the provincial level. Become a problem, whether the license management of hazardous and toxic wastes to be one of the provincial government's authority in the issuance of an environmental permit at the provincial level, and whether the principle of decentralization on environmental management, in this case is a permissions management of hazardous and toxic waste has been successfully implemented in the province of East Java, especially in Malang.

B. Problem Identification

1. How the implementation of Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Management of the Environment, decentralized permissions management related hazardous and toxic waste in Malang city?

2. What are the obstacles faced by Environment Board of Malang City in the implementation of article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Management of the Environment related permissions decentralized on management of hazardous and toxic waste and how its efforts to address the obstacles?

C. Research Method

Types of research used in this study is an empirical juridical. Juridical empirical research that besides basing on field research, the authors also conducted in-depth review of the legislation relating to the permissions decentralized management of hazardous and toxic waste.

In this study the authors used socio-juridical approach. Used socio-juridical approach, in this study was to examine the applicable law is Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Management of Environment-related permissions decentralized management of hazardous and toxic waste in Malang .

The research was conducted in of Malang City Environment Board. Research sites were selected with consideration and the reason that the institutions is an institution in charge of issuing permissions management of hazardous and toxic waste in the city of Malang. While this type of data used in this study consisted of two types, namely:

- a. Primary data is the data that is obtained directly from the field data collection of relevant sources or case studies. Here are a primary data is the result of interviews with respondents.
- b. Secondary data that is additional data to supplement the basic data obtained from the data archive and research documentation and libraries, among others, include official documents, books, research reports the results in the form of reports, theses and theses related to the theme under study.

The source of the data in this research were divided into:

- a. Primary data is the data that is obtained from the original sources. Original source here interpreted as the first source from where the data was obtained. This data was obtained in the form of interviews conducted directly with the respondents in the study, which is Environment Board of Malang City.

- b. Secondary data is data that is obtained from the results of other people's data collection. Type of data obtained indirectly observed or treated by other parties in connection with the problem under study. In this research is obtained from statistical data retrieval technique permissions management of hazardous and toxic waste, environmental legislation, waste management permissions procedures hazardous materials, law books and legal environment and the state administration article article from the internet.

To obtain data with respect to this research, the authors used the method of interview and literature. Primary data collection method in this research is the field interviews, which is researchers work directly on the object of research is expected to produce objective data. Interview is one of the techniques of data collection by conducting unilateral questioning systematically, based on objective, this study used a type of free interviews, which is interview guide or guide interview which conducted with:

- a. Head of Environmental Board of Malang City.
- b. Head of Sub Division of Environmental Control and Waste Management Environment Board of Malang City.
- c. Business actors which business generate hazardous waste and toxic materials (four people), which is:
 - 1) Public Relations of cigarette company PT. W which located in AR. Hakim street;
 - 2) Owner of industry craft bag X which located in WR. Supratman street;
 - 3) Owner of garment industry which located in Bandulan Barat street;
 - 4) Public Relation of cigarette company PT. Z which located in Ir. Rais street.
- d. Society (four people), which is:
 - 1) Two people living around the cigarette companies PT. W in AR. Hakim street;
 - 2) Two repair shop owners in the Blimbing area, Malang

In this research the respondents which selected by writers are ten people.

Library research for secondary data that is reading books and studying literature in accordance with the discussion. The data have been collected through the data collection activities yet gives meaning and purpose of research. Research can not be deduced for research purposes because the data is still the raw material, so the effort required to process it. The process is carried out by checking, examining the data obtained to ensure whether the data can be accounted for in accordance with the fact.

In this research data analysis using qualitative descriptive analysis which is writers describe the data obtained in the field, then the data is carried out an analysis of the implementation of Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Management of the Environment related to decentralization permissions management of hazardous and toxic waste. The data obtained in this research were analyzed using descriptive analysis techniques is the analysis of the data is not out of the scope of the sample and deductive based on theory or concept that is commonly applied to describe a set of data, or comparative or relationship indicates a set of data with another data set. Descriptive research aims to describe or depict a particular state of social phenomena .

D. Research Result and Discussion

Implementation of Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Environmental Management, Permissions Related Decentralized Management of Hazardous and Toxic Waste in Malang City

Hazardous waste and toxic materials have very specific characteristics compared to sewage or other waste, coupled with toxic nature makes this type of waste treated differently so as not discharged directly into the environment and contaminate the environment. To manage hazardous wastes and toxic materials requires permission management of hazardous and toxic waste. This permit is a requirement to get a business license and / or activities. permissions system as an instrument of prevention of hazardous and toxic waste is not waste directly into the environment and contaminate the environment and also the control of industry activity and / or businesses which generate hazardous waste and toxic materials. Permits management of hazardous and toxic waste was originally done thoroughly by the central government through the Ministry of Environment of the Republic of

Indonesia. Both permissions nationally, and locally. To simplify and streamline permissions management of hazardous and toxic waste for the industry and the actors involved in the management of hazardous and toxic waste in the area, then applied to a decentralized system in the permissions of hazardous and toxic wastes. Under the Act No. 32 of 2009 on the Protection and Management of the Environment Article 59 paragraph (4),

Management of hazardous and toxic waste must obtain a permit from the Minister, governor or regent / mayor in accordance with the authority.

Implementation of article related to licensing decentralized management of hazardous and toxic waste has been implemented in the city of Malang by Malang City Regional Regulation No. 14 of 2001 on the Management of Hazardous and Toxic Waste. However, the licensing authority of the management of hazardous and toxic waste is limited to permits that must be owned by the producer of hazardous and toxic waste, collection of hazardous and toxic wastes and utilization of hazardous and toxic wastes. Form of permission granted is in the form of permission "Temporary Shelter Sites" of hazardous and toxic wastes and permit the collection of hazardous and toxic wastes. Permission is granted to the Ministry of Environment Local Government Malang in this case Environment Board Malang City which has jurisdiction over matters related to Environment in Malang City.

According to the theory of the effectiveness of the law, there must be some factors that must be met in order for a law to be effective. In the implementation of decentralized waste management licensing hazardous and toxic materials in Malang City also investigated several factors as whether the decentralized benchmark licensing management of hazardous and toxic waste have been implemented and become effective in Malang City. Such factors, among others:

1. Rule of law factor

In implementing the waste management licensing hazardous and toxic materials, Local Government Regulation of Mayor establish the basis for the authority of local governments in carrying out its authority. Although the local government authority is included in Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Management of

the Environment, the Mayor issued regulations to follow up on the competencies of local government in providing the B3 waste management license. Mayor rules in question is the Mayor Regulation No. 14 year 2001 on the Management of Hazardous and Toxic Waste.

2. Law enforcement factor

A law enforcement officers who have the authority to permit the management of hazardous and toxic waste in Malang City were officers from the Environment Board Malang City. Due to Environment Board staff Malang City limited, then for oversight An enforcement was not able to run effectively. But the Environment Board Malang City still strive to provide optimum service and oversight of industries in the city of Malang in this case, the industry that produces hazardous and toxic waste is the licensing and a requirements for managing hazardous waste and toxic materials have been fulfilled.

3. Facilities and infrastructure factor

The lack of facilities that can be used Malang City Environment Board would be a obstacles in the implementation of the licensing procedure management of hazardous and toxic waste. One of them, for testing levels of waste, Environment Board should work closely with a certified laboratory that has adequate equipment to check the levels of waste. Lack of transportation facilities is also a barrier to the licensing procedure management of hazardous and toxic waste is to run optimally.

4. Bussiness actors and industrial factor

According to industry, there is a positive And a negative role in the decentralized system of waste management licensing hazardous and toxic materials. From the positive side, it can be more efficient time and cost compared to having to apply for permission to the Central Government, namely the Ministry of Environment. While the downside, permitting decentralized management of hazardous and toxic waste is limited to permit temporary shelters and gathering only. While other management permit such transport, stockpiling, processing utilization also still have to be submitted to the Ministry of Environment. Her procedure was not

synergistic dengan Environment Board in Malang City, so if you want to continue asking permission to the Ministry of Environment, the procedure must also be met from the beginning, including surveys and test levels of waste, which will certainly take time and considerable costs . Therefore, some industries have only a few states that permit the management of hazardous waste and toxic materials.

Table 3
Causes of Industries Producers of Hazardous and Toxic Wastes Does not
Have Permission Waste Management Hazardous Materials
n= 4

No	Causes of Industries Producers of Hazardous and Toxic Wastes Does not Have Permission Waste Management Hazardous Materials	frequency (f)	Percentage (p)
1	Already has a permit temporary shelter site and collection of hazardous and toxic waste	2	50%
2	Procedures currently in temporary shelter site permit application of hazardous and toxic wastes.	1	25%
3	Because medium-scale enterprises, not knowing must have the permission management of hazardous and toxic waste.	1	25%
	Sum	4	100%

Sumber: Primary Data, March 2013, processes.

From the table shows that 50% of respondents already have a permit temporary shelter site to accommodate the waste they produce. But this waste containment can only be temporary. Due to the management of hazardous and toxic waste after the waste collected must have the permission of the management of hazardous wastes and other toxic, which is not under the authority of Environment Board Malang City. Further management permit must be submitted to the competent state institutions, the Ministry of Environment. As long as the industry does not have permission, then it should not be made the management of hazardous and toxic waste further. In this case, the industry will use the

services of other companies that have licensed the management of hazardous and toxic waste further from the Ministry of Environment. Industries stated that this method is more efficient in time even though the cost is quite high.

While 25% of respondents from the industry are doing procedures permit application management of hazardous and toxic waste. Before applying for a permit, industries use the services of other companies that have permits management of hazardous and toxic waste. Due to the growing industry, then the industry decided to build temporary shelter site of hazardous and toxic wastes her independently. And for the management of hazardous waste and toxic materials will also subsequently filed its license to the Ministry of Environment. There also does not have a waste management license B3 by 25% of respondents. Although the industry is quite susceptible generate hazardous and toxic waste, according to the respondents permit management of hazardous and toxic waste have not yet filed for medium-scale industries that still.

Article 59 paragraph (1) Act No. 32 of 2009 on the Protection and Management of the Environment stated that,

Everyone who generate hazardous waste and toxic materials required to conduct the management of hazardous and toxic waste that it generates.

This indicates that although the industry large, medium or small, every person that produces waste management of hazardous and toxic waste management should keep doing the hazardous and toxic materials. In the event that the industry still has not been able to mengelolala waste itself, could be submitted to the other party, as described in Article 59 paragraph (3) Act No. 32 of 2009 on the Protection and Management of the Environment, which

In case anyone was not able to do their own management of hazardous and toxic wastes, management is delegated to another party.

This has been done according as 75% of respondents from the industries producing hazardous and toxic wastes. In the waste management licensing hazardous and toxic materials, must be submitted to the Ministry of Environment, but in terms of permitting temporary shelter site in Malang City that has the authority of the City Government of Malang by the Environment Board Malang City, permission was submitted directly to Environment Board Malang city with all the procedures to be followed by the industries that will ask permission.

5. Society factor

People are still ignorant about waste management regulations hazardous and toxic materials. This is evidenced from the number of people who dispose of hazardous and toxic wastes such as oil, used batteries, directly in landfills. Especially if this waste is dumped directly into nature. This makes the level of natural contamination by hazardous waste and toxic materials are still high. People should be more aware to comply with existing legislation for environmental sustainability and authorities should also help in the socialization of legislation so that people more aware of the dangers caused by dumping of hazardous and toxic waste directly. The following are the factors that cause people do not dispose of hazardous and toxic waste directly without any previous management:

Table 4
Causes of Society Disposal of Hazardous and Toxic Waste Without Management
n= 4

No	Causes of Society Disposal of Hazardous and Toxic Waste Without Management	Frequency (f)	Percentage (p)
1	Do not know what kind of trash / waste that classified as hazardous waste and toxic materials.	3	75%
2	Do not know hazardous and toxic waste should be carried the management	1	25%

	before discharge.		
	Sum	4	100%

Sumber: Primary Data, March 2013, Processed.

The above table shows that public awareness about hazardous waste and toxic materials are still very minimal. 75% of respondents did not know the people that are categorized as waste hazardous and toxic waste. Lots of hazardous and toxic waste being dumped directly such as used oil, batteries, etc.. It is very dangerous for the environment. While 25% of respondents which is a shop owner used aware oil waste and batteries are some of the many hazardous and toxic waste associated by its business, but did not know that the hazardous and toxic waste must be managed before disposal to reduce dangerous levels of hazardous waste and toxic materials.

In accordance by the above indicators, the City Government through Environment Board Malang Malang City can not run an effective waste management licensing. With the legal framework for the implementation of waste management B3 Malang City Regional Regulation No. 14 year 2001 on the Management of Hazardous and Toxic Waste. So far, the new permits issued Temporary Storage Sites of hazardous and toxic waste, while rules concerning the collection has not been implemented because it is still new. As for the licensing of hazardous waste management and other toxic still not implemented in decentralized.

Impact of Implementation Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Environmental Management, Licensing Related Decentralized Management of Hazardous and Toxic Waste in Malang City

The impact of the implementation of decentralized waste management licensing hazardous and toxic materials in Malang City, among others:

1. Positive impact

a. For Local Government and Environment Board Malang City

According to the Environment Board Malang City, permitting decentralized management hazardous and toxic waste is to make the

management of hazardous and toxic wastes become more organized and more effective and efficient in its application.

b. For industries producing hazardous waste and toxic

According industries producing hazardous and toxic waste, permitting decentralized management hazardous and toxic waste is even easier for industries to get permits management of hazardous and toxic waste and more efficient time and cost compared to having to apply for permission to the Ministry of Environment.

c. For society

For People, decentralized waste management licensing of hazardous and toxic waste in order to provide more knowledge of households classified as hazardous and toxic waste generated can be handled well and does not pollute the environment.

2. Negative impact

a. For Local Government and Environment Board Malang City

Because previous management of hazardous and toxic waste under the authority of Ministry of Environment, by decentralization, Environment Board Malang City should start from the beginning of the surveillance industry that produces hazardous and toxic waste that has been long standing. Transition management licensing authority that originally submitted entirely to the Ministry of Environment and is now partly Authority Environment Board Malang City need socialization as intensively as possible by limited budget of the Local Government.

b. For industries producing hazardous waste and toxic

Industries and businesses that generate hazardous waste and toxic materials must apply for permission to assume by management of hazardous and toxic waste at the local level, but still should apply for a permit at the national level for the management of hazardous waste and other toxic materials which not the authority of the local government, permits should they let too many and increasingly time consuming and costly in permission application procedures.

c. For society

Negative impact on the community is by lack of socialization but still controls implemented. Society became alarmed by the sanctions provided for their mistakes but without understanding the law that the Act regulated their behavior and prohibited by law.

Obstacles Encountered Environment Board Malang City In Implementation of Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Environmental Management, Licensing related Decentralized Management of Hazardous and Toxic Waste in Malang City⁴

The obstacles faced by Environment Board Malang City was derived from internal factors, from the Environment Board agency Malang City and external factors, outside institutions Environment Board Malang City, among other:

1. Internal factor

Malang City Environment Board in the implementation of decentralized waste management licensing hazardous and toxic materials, among others, is the limited number of Human Resources to serve and perform the procedures in the issuance of permits management of hazardous and toxic waste. Facilities and infrastructure for operational vehicles were still less able to support the licensing procedure management hazardous and toxic waste.

2. Eksternal factor

In the implementation of decentralized waste management licensing hazardous and toxic materials, the external factors which can hinder the rules and authority is given to Environment Board Malang City only permit temporary shelter site and collection permits. While permission to manage hazardous and toxic waste still further the authority of the central government through the Ministry of Environment. Become a bottleneck in the operation of the transport / removal of hazardous and toxic waste, Environment Board should coordinate with other industries, the transport industry has a license from the Ministry of Environment in order to test the feasibility of a road vehicle.

⁴ Results of interviews with the Division Head of Environmental Control and Waste Management Environment Board Malang City, on 25 February 2013

Obstacles is something which is the reason a rule of law can not be run properly and effectively. This Obstacles can be determined if a law has been implemented and applied in society. Decentralization of permissions management hazardous and toxic waste have been implemented since 2001 with the issuance of Mayor Regulation Number 14 year 2001 on the Management of Hazardous and Toxic Waste. Much earlier than Act No. 32 Year 2004 on Regional Government and Law No. 32 of 2009 on the Protection and Management of the Environment. It is proved that the decentralized management of hazardous and toxic waste have been done long ago and 2 of Act on which the of Mayor's Regulations have been amended. Surely of Mayor Regulation on Waste Management and beracunini hazardous materials should be reviewed with consideration of Act on which the of Mayor's Regulations have been amended, the negative impact of the implementation and minimize obstacles faced by Environment Board Malang City since 2001. However, Environment Board still give effort in overcoming obstacles encountered in the implementation of the decentralization of the management of hazardous waste and toxic materials for services provided the optimal.

Solution of Constraints Environment Board Malang City In Implementation of Article 59 paragraph (4) Act No. 32 of 2009 on the Protection and Environmental Management, Licensing Related Decentralized Management of Hazardous and Toxic Waste in Malang City⁵

The role of local government through Environment Board Malang City is very important in the implementation of the decentralization of the management of hazardous waste and toxic materials in the wretched town. Based on the reality of the implementation of decentralized waste management permissions hazardous and toxic materials which be done by the Environment Board Malang City, it would require concrete efforts in the improvement of both the service and the implementation of the legislation. In this regard, the efforts made to overcome the obstacles by the Environment Board in implementing permissions Malang City management hazardous and toxic waste are by:

⁵ Results of interviews with the Division Head of Environmental Control and Waste Management Environment Board Malang City, on 25 February 2013

1. Coordination with the freight industry hazardous and toxic waste which has permission transport hazardous and toxic wastes from the Ministry of Environment and adequate laboratory to check the levels of hazardous and toxic materials from waste, which can assist the implementation of permissions procedure management hazardous and toxic waste in terms of transport and / or removal of hazardous materials and toxic waste.
2. Developing human resources more aware and responsive to the management of hazardous and toxic, either from the Environment Board Malang City, industry and entrepreneurs whose business has the potential to generate hazardous and toxic wastes, as well as people with the training and seminars.
3. Develop facilities, facilities and infrastructure which can support the implementation and monitoring of waste management permissions hazardous and toxic materials in Malang City.

With the efforts of Environment Board Malang City provide a solution of obstacles in the implementation of decentralized waste management permissions hazardous and toxic materials, the resistances are expected to be minimized and rendered Environment Board is also the optimal Malang City. The role played by Environment Board in the implementation of decentralization Malang City permissions management of hazardous and toxic waste must not be separated from the support of industry and entrepreneurs whose business has the potential to generate hazardous and toxic wastes to be aware of the law and meet the requirement to have a permit,. Society can also be a producer hazardous and toxic waste regardless of the scale or a small business from household waste, to better find and understand the information management of hazardous and toxic waste in terms of regulations and their implementation. With the support of all parties, permissions the management hazardous and toxic waste in Malang City can run properly and effectively.

E. Conclusion and Suggestion

Conclusion

1. Implementation decentralized waste management permissions hazardous and toxic materials in Malang City can not be done effectively and optimally.

Due to limitations of facilities / infrastructure, law enforcement and lack of understanding of the regulations regarding the management of hazardous and toxic wastes which can be an indicator that this rule can not be implement effectively. Not all permits management hazardous and toxic waste is given to the Ministry of the Environment Board Environment Malang City, only permission Temporary Storage Sites hazardous and toxic wastes and permit the collection of hazardous and toxic wastes. But so far which has been implemented permissions Environment Board permit only Sites Malang City Temporary Storage of hazardous and toxic waste only, while permits collection hazardous and toxic waste still in the laws and regulations on the industry and its potential businesses that generate hazardous waste and toxic and community.

2. Obstacles encountered in the implementation of the decentralization of the management of hazardous waste and toxic materials are obstacles derived from internal and external factors. The barriers include:

- a. Internal factor

Malang City Environment Board in the implementation of decentralized waste management permissions hazardous and toxic materials, among others, is the limited number of Human Resources to serve and perform the procedures in the issuance of permissions management of hazardous and toxic waste. Facilities and infrastructure for operational vehicles were still less able to support the permissions procedure management hazardous and toxic waste.

- b. External factor

In the implementation of decentralized waste management permissions hazardous and toxic materials, the external factors which can hinder the rules and authority is given to Environment Board Malang City only permit temporary shelter site and collection permits. While permission to manage hazardous and toxic waste still further the authority of the central government through the Ministry of Environment. Because of the lack of authority of Environment Board of the City of Malang management

hazardous and toxic waste after temporary shelter and collection phase, the monitoring was limited at this point only.

Suggestion

1. For Ministry of Environment

Ministry of Environment should be able to give greater authority to permissions the management of hazardous and toxic waste in addition to license Sites Temporary Storage hazardous and toxic wastes and permit the collection of hazardous and toxic waste, so that the industry and potential entrepreneurs whose businesses generate hazardous waste and toxic can be more efficient in the application for license management of hazardous and toxic waste further.

2. For Local Government and Environment Board Malang City

Government of Malang City and Malang City Environment Board should be paying more attention to the lack of facilities and infrastructure are also vehicles that can support the operations of permissions procedure management hazardous and toxic waste in Malang City. This is because the infrastructure is very important for Environment Board to provide optimum service for approval of the management hazardous and toxic waste. The existence of a more intensive socialization by the Environment Board in order Malang City understanding of the industry, its businesses which could potentially generate hazardous waste and toxic materials, and people understand and understands the importance of managing hazardous wastes following with the legal consequences.

d. For industries producing hazardous waste and toxic

Industries and entrepreneurs whose businesses could potentially generate hazardous and toxic waste should be aware of the law and meet the requirement to have a permit. Do not should wait for the recommendations issued by the Environment Malang City, businesses must be more pro-active in reporting on its activities if potentially generate hazardous and toxic waste.

3. For society

Society can also be a producer hazardous and toxic waste regardless of the scale or a small business from household waste, for that public should be looking for the information and understand the management of hazardous waste and toxic materials from the regulatory and implementation.

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